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C O N F I D E N T I A L SECTION 01 OF 02 DAR ES SALAAM 000282

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S/WCI FOR AMB WILLIAMSON, BDOHERTY
AF/RSA FOR LMAZEL, AF/E FOR JLIDDLE
ADDIS FOR AU MISSION
USUN MISSION FOR UNSC OFFICE
LONDON, PARIS, THE HAGUE FOR AFRICA WATCHERS

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TAGS: [PREF](#) [PREL](#) [TZ](#)

SUBJECT: ICTR: CLOSURE, LEGACY AND BRINGING FUGITIVES TO JUSTICE

Classified By: P/E Counselor Mary Johnson for reasons 1.4 (b) and (d).

SUMMARY

11. (SBU) Ambassador Clint Williamson from the Office of War Crimes Issues (S/WCI) visited the United Nations International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania from April 5 to 8. He discussed the Tribunal's completion strategy and urged all concerned to remain efficient and focused in meeting the UN Security Council (UNSC) closure guidelines. Ambassador Williamson also discussed outstanding variables including possible Rwandan transfer cases, the prospect of a Rwandan Patriotic Front (RPF) case, fugitives still at-large, and ICTR residual and legacy issues. On fugitives, Williamson noted that the USG intends to restart the Rewards for Justice (RFJ) program in the Democratic Republic of Congo (DRC) and sought ICTR,s support. End summary.

CLOSURE AND COMPLETION STRATEGY

12. (U) While ICTR leadership acknowledged to Ambassador Williamson that the Tribunal must prepare to close, opinions varied about how and when this should happen. President Dennis Byron said the date for closure had been set without taking into consideration how such a court would function or close, how much time would be needed, and what types of variables might arise. On this basis, Byron said that an extension may be necessary and sought Williamson,s advice on presenting a &contingency budget8 to the UNSC. While Ambassador Williamson did not offer advice on the UN budget process, he did note that flexibility on an ICTR extension would largely depend on a demonstrated record of efficiency as well as contingency planning; he urged Byron to make such a plan. Byron agreed and noted a recent staff retreat focused on setting transparent closure processes and forming realistic staff expectations.

13. (U) Specifically, the ICTR closure plan calls for the sequential phasing out of roughly 350 jobs over the next year with each employee to be given at least three months notice. In a meeting with Sarah Kilemi, Chief of the Division of Administrative Support Services, she said employees were encouraged to take advantage of ICTR's career placement center. She noted that the 600 locally engaged staff (LES) could experience the greatest challenges in finding onward work with the professional legal staff likely to fare better in the open job market.

14. (C) ICTR officials commented that an important part of any closure plan should include strong capacity building for the Rwanda judicial system. Bongani Majola, Deputy Prosecutor,,QpK\$E-w0G@olkQuSag5%x\$-Q^0SQ=QL_; 0Q?e dwindling funds to continue these activities. The ICTR had received some support from the European Union for capacity building, but that sum was nearly depleted. Byron and others made their case for greater funding support from the international community.

RWANDAN TRANSFER CASES

15. (C) Ambassador Williamson discussed with a range of parties the likelihood of transferring five cases from the ICTR to Rwanda (Note: these cases are currently before three separate ICTR trial chambers, with oral arguments expected by April 24 and a decision sometime in May or later. End Note). While predictions varied, and some were hesitant to say so explicitly, the strong sense was that the ICTR would likely not/not transfer cases to Rwanda based on fair trial concerns, including independence of Rwanda's judiciary. In the event transfers to Rwanda ultimately failed, Williamson urged Prosecutor Jallow to develop contingency transfer plans to other locations.

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16. (C) Ambassador Williamson also had an unscheduled meeting with Alloys Mutabingwa, Government of Rwanda (GOR) Representative to the ICTR, and Martin Ngoga, GOR's Prosecutor General, while in Arusha. Mutabingwa reiterated that Rwanda was ready for ICTR transfers, noting the recently signed sentence enforcement agreement, and expressed great concern over the ICTR continuing indefinitely. Ngoga said

that GOR would view a failed transfer as a rebuke to its own national authority and sovereignty and plainly said it would be very difficult for GOR to continue ICTR cooperation under such circumstances. Williamson urged the GOR to maintain cooperation and pointed out that any decision concerning the accused individuals would be appealed, thus giving GOR and the international community an additional window to address the separate issue of judicial capacity in Rwanda. Ambassador Williamson also suggested that an international presence on Rwanda's judicial benches could assuage possible ICTR concerns. Both agreed and said they would raise this issue separately with the GOR leadership.

RPF CASES

17. (C) Concerning the possibility of prosecuting Rwandan Patriotic Front (RPF) members, Prosecutor Jallow said he was still examining two cases but would like to use the upcoming June UN Security Council briefing to address these cases with the UNSC. His current thinking is to transfer two case files (Note: Case files, as opposed to actual indictments, do not require a formal judicial review prior to a transfer. End Note), along with certain conditions, to Rwanda for prosecution. Jallow noted that the GOR, specifically President Paul Kagame, was on board with this approach. Williamson's meeting with GOR Prosecutor General, Martin Ngoga, also confirmed the GOR's support for this approach; Ngoga indicated that discussions with Jallow on the way forward were proceeding in a productive fashion.

FUGITIVES

18. (C) Ambassador Williamson told ICTR officials that the USG intends to restart the Rewards for Justice (RFJ) program in the Congo (DRC) as a final push to apprehend Rwandan fugitives still residing there. He sought and received Prosecutor Jallow's support and agreement to provide two ICTR investigators to assist the program. Jallow said that progress was still slow on apprehending alleged genocide Felicien Kabuga in Kenya but that information indicated Kabuga may be losing favor with President Mwai Kibaki's party. Ambassador Williamson reiterated the USG's commitment to continue assisting the ICTR) diplomatically and politically) in apprehending all fugitives.

LEGACY AND RESIDUAL ISSUES

19. (U) Williamson expressed USG's long-standing desire to see the ICTR complete its mandate successfully which includes planning for the complex residual and legacy issues prior to ICTR's closure. He thanked Registrar Adama Dieng for the joint ICTR/International Criminal Tribunal for Yugoslavia (ICTY) residual paper but reiterated that the UNSC will ultimately need accompanying budget numbers to make realistic decisions. In a meeting with Sylvie Becky, Chief of Witness and Victim Support Section, she praised GOR's role in supporting past witnesses. However, Becky expressed concern at the ability of the GOR, even with assistance from the Rwandan NGO community, to provide robust and effective witness support and protection after the ICTR closes. Finally, in a meeting with President Byron, Byron emphasized that important ICTR work still remained, noting that the true legacy of the court would be to serve as a bridge from the Rwandan atrocities of the past to a Rwanda of peace and reconciliation. In Byron's view that goal had not yet been achieved.

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